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EXAMINER	
LAI, DANIEL	

ART UNIT	PAPER NUMBER
2617	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/752,050	BENCO ET AL.	
	Examiner	Art Unit	
	DANIEL LAI	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 February 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-47* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-47* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

Response to Arguments

Applicant's arguments filed 3 February 2009 have been fully considered but they are not persuasive.

As a preliminary matter, a clerical error is noted on page 2, and page 3 of the Office Action mailed 4 November 2008. Claims 10 and 11 should be rejected under 103 as being unpatentable over Bugiu in view of Call Center Plus as cited on page 6 of the Office Action.

In response to the argument that the Office Action mailed 4 November 2008 is not completely response because the Office Action relies on many of the same references as were relied on to justify the rejections presented earlier, Examiner respectfully disagrees because even though many of the same references were relied on, a different primary reference was introduced in the Office Action and new grounds of rejections were raised, and hence the previous arguments were moot.

In response to the argument that Bugiu does not teach a method for charging a subscriber for airtime, the method comprising determining a first reference billing rate for a first category of airtime; determining a first threshold airtime amount for the first category of airtime; determining a quantity of first category airtime consumed by the subscriber; determining a first discounted billing rate for the first category of airtime that is less than the first reference rate based on a function that at least one of rewards customer loyalty and encourages subscription to higher cost subscription plans; and charging the first discounted billing rate for at least some first category airtime consumed by the subscriber in excess of the threshold airtime amount,

Examiner respectfully disagrees. Bugiu discloses applying discount or promotion to a user account with a reduced amount for calls over a certain duration (first threshold). In order to offer a discount, a reference price has to be determined first so that the discount can be applied to the reference price. The "first category of airtime" is not explicitly defined, and since Bugiu discloses more than one promotion can be offer to a group of customers, and the number of offers and timing of the promotion may be generated in any way. Bugiu further discloses loyalty program. Therefore, Bugiu discloses the claimed limitations of claim 1.

In response to the argument that "only hindsight reasoning based on information gleaned only from the present application could cause one to construe a discussion of call duration as having anything to do with a threshold airtime amount for a first category of airtime as is alleged by the Office Action. A call is not a category of airtime, such as daytime, nights and weekends, etc.", Examiner respectfully disagrees because the argued features which define the category of airtime, such as daytime, nights and weekends were not recited in the claims. Furthermore, call duration for a mobile communication can reasonably be interpreted as airtime consumed, and Bugiu discloses providing discount for calls over a certain duration. By providing discount means charging for less. In the instant application, a CDR and a graduated biller were disclosed as means to determine airtime usage and means to determine and charge discounted billing rate, respectively. Bugiu discloses a CDR and postpaid billing system to determine and charge discounted billing rate. Applicant has not showed how the CDR and postpaid billing system are different from the means as disclosed in the present application in the arguments.

In response to Applicant's argument that ones of ordinary skill in the art would not look to Whewell because Whewell discourages subscribers from subscribing to any but the lowest

cost service plan, While this may be the case, however, the claimed invention is directed to charging a discounted billing rate based on a function that at least one of rewards customer loyalty and encourages subscription to higher cost subscription plans. Bugiu discloses rewarding customer loyalty. Rewarding customer loyalty has nothing to do with cost of subscription plan. Furthermore, Whewell is incorporated as one of many evidences that charging a flat fee for an amount of airtime is well known in the art, and there is no novelty in charging a flat fee. While Whewell may not have explicitly disclosed a second category of airtime, however, Bugiu discloses secondary of airtime (see discussion on first category of airtime above). Bugiu discloses Call Detail Record (CDR) entity to determine airtime usage and entity to determining and charging customer with discounted billing rate. Therefore, Bugiu in view of Whewell discloses the "means" recited in the claimed invention.

In response to applicant's argument that Call Center Plus (CCP) is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, CCP is a price list which discloses billing plan, and therefore is an analogous art.

In response to applicant's argument that Bugiu does not "disclose or suggests a graduated biller operative to apply one or more charges for portions of one or more total quantities of airtime that are below one or more threshold quantities and to apply at least one discounted billing rate to one or more portions of the one or more total quantities of airtime that are above the one or more threshold quantities of airtime, wherein the at least one discounted billing rate is

determined from a function that at last one of rewards customer loyalty and encourages subscription to higher cost subscription plans, Examiner respectfully disagrees because Bugiu discloses a billing system to determine airtime usage of customers and incentive billing. Therefore, Bugiu discloses a billing system operative to apply discounted billing rate and the claimed limitations.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In response to the argument that Bugiu in view of CCP does not disclose a third threshold and a forth threshold, Examiner respectfully disagrees because CCP discloses higher discounted billing rate for higher usage. Therefore, a third threshold and a forth threshold, or even further thresholds would have been obvious because the concept is taught by CCP.

In response to applicant's argument that Bugiu in view of Dahm does not disclose "determining a time period the subscriber has been a customer", Examiner respectfully disagrees because Dahm discloses the longer a customer has been a customer, the more likely the customer is likely to churn, and offering better rates for customers that are likely to churn. Therefore, customers with the service provider for a longer period of time will be offered better rates. Claim 13 does not recite a function of loyalty is the length of time a customer has been a customer. The

fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

In response to the argument that Bugiu in view of Ruckart does not disclose determining a calling plan subscription cost of the subscriber and determining the first discounted billing rate based on a function of the calling plan subscription cost of the subscriber that generates larger discounts for higher cost subscription plans, Examiner respectfully disagrees because Ruckart discloses offering greater discount if more expensive product (higher subscription plan) is selected. Please also note that "higher cost subscription plans" require more money spent by a customer because the customer has to pay more for a higher cost subscription plan. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation is found in Ruckart as cited in the Office Action.

For at least the foregoing reasons, the claimed limitations read upon the cited reference and therefore the arguments are found to be unpersuasive.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 7, 8, 20, 21, 26, 27, 35, 37 and 38 are rejected under 35 U.S.C. 102(e) as being anticipated by Bugiu et al. (US 2004/0009762 A1, hereinafter Bugiu).

Regarding claims 1 and 20, Bugiu discloses a method and a system for charging a subscriber for airtime (Abstract, paragraph 40). Bugiu discloses determining a first reference billing rate for a first category of airtime (paragraph 40, where Bugiu discusses promotion of a percentage off a specific rate, and the specific rate is the first reference billing rate, and also note that in paragraph 32, Bugiu discusses discount for airtime). Bugiu discloses determining a first threshold airtime amount for the first category of airtime (paragraph 40, where Bugiu discusses call duration). Bugiu discloses determining a quantity of first category airtime consumed by the subscriber (paragraphs 32, 40 and 43, and note that in order to provide discount to a call over a duration, the total call duration has to be determined). Bugiu discloses determining a first discounted billing rate for the first category of airtime that is less than the first reference rate based on a function that at least one of rewards customer loyalty and encourages subscription to a higher cost subscription plans (paragraph 40, where Bugiu discusses loyalty program). Bugiu discloses charging the first discounted billing rate for at least some first category airtime consumed by the subscriber in excess of the first threshold airtime amount (paragraphs 40, 43

and 53). Regarding claim 20, Bugiu further discloses means for performing the method of claim 1 (paragraph 31).

Regarding claim 35, Bugiu discloses a system operative to charge a progressively lower rate for airtime consumed by a subscriber during a billing period (Abstract, paragraphs 40 and 53). Bugiu discloses a call record reviewer operable to determine one or more total quantities of airtime consumed in one or more airtime categories during the billing period (paragraphs 31-32, where Bugiu discusses CDRs and postpaid billing system). Bugiu discloses a graduated biller operative to apply one or more charges for portions of the one or more total quantities of airtime that are below one or more threshold quantities and to apply at least one discounted billing rate to one or more portions of the one or more total quantities of airtime that are above the one or more threshold quantities of airtime (paragraphs 31 and 40) wherein the at least one discounted billing rate is determined from a function that at least one of rewards customer loyalty and encourages subscription to higher cost subscription plans (paragraph 40).

Regarding claims 2, 21, 37 and 38, Bugiu further discloses charging the first category airtime consumed by the subscriber up to the first threshold airtime amount (paragraphs 40 and 53).

Regarding claims 7, 8, 26 and 27, Bugiu discloses determining quantity of airtime consumed above a threshold amount and charge the excess airtime above the threshold with a discounted billing rate (see claims 1 and 2 above). Bugiu further discloses a second category of airtime (see paragraph 41, where Bugiu discusses different criteria for providing incentive billing and paragraph 70).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 3, 9, 16, 17, 19, 22, 28 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bugiu in view of Whewell (US 2004/0043754 A1).

Regarding claims 3, 9, 22, 28 and 36, Bugiu discloses the limitations of claims 1, 8, 20 and 27 as applied above. Bugiu discloses providing discount on duration in excess of a threshold

(paragraph 40), but does not explicitly teach charging a flat fee for airtime consumed by the subscriber up to the first airtime amount. Whewell discloses billing consumers for use of cellular services by charging a flat fee for up to a threshold (paragraphs 2-4). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the discounted billing scheme as disclosed by Bugiu to charge subscriber with a flat rate for up to a threshold amount in order to provide the subscriber with a reference airtime included with a subscription plan.

Regarding claim 16, Bugiu discloses a method for charging a subscriber for airtime (Abstract, paragraphs 40 and 55). Bugiu discloses associating one or more reference billing rates with a respective one or more airtime categories in a calling plan (paragraph 40). Bugiu discloses determining one or more respective discounted billing strategies for charging for airtime consumed by the subscriber in excess of one or more calling plan limits associated with a calling plan of the subscriber wherein the one or more discounted billing strategies is based on a function that at least one of rewards customer loyalty and encourages subscription to higher cost subscription plans (paragraphs 40-43). Bugiu discloses determining one or more airtime amounts in the one or more airtime categories consumed by the subscriber in an airtime billing period (paragraphs 40, 53 and 55). Bugiu discloses applying one of the one or more reference billing rates for respective portions of the one or more airtime amounts that are within the one or more calling plan limit to determine basic charges, applying the one or ore discounted billing strategies to portions of the one or more airtime amounts that are in excess of the calling plan limits to determine discounted charges and combining the basic charges and discounted surcharges to determine a total charge for the subscriber for the billing period (paragraphs 40 and 55). Bugiu discloses providing discount on duration in excess of a threshold (paragraph 40), but does not

explicitly teach charging a flat fee for airtime consumed by the subscriber up to the first airtime amount. Whewell discloses billing consumers for use of cellular services by charging a flat fee for up to a threshold (paragraphs 2-4). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the discounted billing scheme as disclosed by Bugiu to charge subscriber with a flat rate for up to a threshold amount in order to provide the subscriber with a reference airtime included with a subscription plan.

Regarding claim 17, Bugiu further discloses selecting one or more airtime consumption threshold for each of the one or more airtime categories and calculating one or more discounted billing rate associated with the one or more airtime consumption threshold based on a function of at least the amount of airtime consumed in one or more airtime categories during period of interest, the function selected to generate larger discounts for the amount of airtime consumed in the one or more airtime categories (paragraph 40).

Regarding claim 19, Bugiu further discloses processing call detail records generated by calls associated with the subscriber during the billing period (paragraphs 31-32 and 53-55).

Claims 4-6, 10-12, 24-25, 29-31 and 39-41are rejected under 35 U.S.C. 103(a) as being unpatentable over Bugiu in view of Call Center Plus (http://web.archive.org/web/20030210080601/callcenterplus.com/pricing.html), hereinafter CCP.

Regarding claims 4-6, 10-12, 24-25, 29-31 and 39-41, Bugiu discloses the limitations of claim 1 as applied above. Bugiu discloses providing incentive billing for usage of airtime over a predetermined period, but does not expressly disclose a second threshold airtime amount with a second discounted billing rate, a third threshold airtime amount with a third discounted billing rate and a forth threshold airtime amount with a forth airtime discounted billing rate. In an

analogous art, CCP discloses a billing method which provides higher discounted billing rate as minutes of usage of service increases ("Pricing", where discounted billing rate for 2000+ minutes is higher than 1001-2000). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the discounted billing scheme as disclosed by Bugiu to increase billing incentive with the increase of minute usage as disclosed by CCP in order to encourage subscribers to utilize services during low activity periods.

Claims 13, 32 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bugiu in view of Dahm et al. (US 6,301,471 B1, hereinafter Dahm).

Regarding claims 13, 32 and 42, Bugiu discloses the limitations of claims 1 and 20 as applied above. Bugiu further discloses determining discount billing rate as a function of loyalty, but does not explicitly disclose determining a time period the subscriber has been a customer and determining the first discounted billing rate based on a function of the time period the subscriber has been a customer that generates a larger discount for longer customer time periods. In an analogous art, Dahm discloses a method and system to provide subscriber loyalty and retention techniques (col. 2, lines 21-43). Dahm discloses offering bettering rates in exchange for longer-term commitment to customers that are likely to churn (col. 11, line 67-col. 12, line 31). Dahm further discloses likelihood of a Customer churning increases each passing month (col. 1, lines 19-27). Therefore, a customer who has been subscribers of service for a longer period of time is more likely to churn. It would have been obvious to one having ordinary skill in the art at the time of the invention to combine the billing method as disclosed by Bugiu with the loyalty retention system as disclosed by Dahm so that a service provider can retain existing subscribers and increase profit by retaining subscribers.

Claims 14, 33 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bugiu in view of Ruckart (US 7,324,963 B1).

Regarding claims 14, 33 and 43, Bugiu discloses the limitations of claims 1 and 20 as applied above. Bugiu further discloses rewarding customers for money spend on service, but does not explicitly disclose determining a discounted billing rate based on calling plan subscription cost. In a similar field of endeavor, Ruckart discloses a method and apparatus for providing discounted billing rates customers for wireless telephone services (Abstract, col. 3, lines 33-36). Ruckart discloses providing a greater discount if more expensive products are selected (col. 3 lines 51-56). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Bugiu with Ruckart to determine a discounted billing rate based on the price of a product is selected in order to provide a variable pricing structure that rewards customers for choosing a greater number of goods and services (col. 2, lines 5-19).

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bugiu in view of Whewell as applied to claim 16 above, and further in view of Dahm.

Bugiu in view of Whewell discloses the limitations of claim 16 as applied above. Bugiu further discloses determining discount billing rate as a function of loyalty, but does not explicitly disclose determining a time period the subscriber has been a customer and determining the first discounted billing rate based on a function of the time period the subscriber has been a customer that generates a larger discount for longer customer time periods. In an analogous art, Dahm discloses a method and system to provide subscriber loyalty and retention techniques (col. 2, lines 21-43). Dahm discloses offering bettering rates in exchange for longer-term commitment to customers that are likely to churn (col. 11, line 67-col. 12, line 31). Dahm further discloses

likelihood of a Customer churning increases each passing month (col. 1, lines 19-27). Therefore, a customer who has been subscribers of service for a longer period of time is more likely to churn. It would have been obvious to one having ordinary skill in the art at the time of the invention to combine the billing method as disclosed by Bugiu with the loyalty retention system as disclosed by Dahm so that a service provider can retain existing subscribers and increase profit by retaining subscribers.

Claims 15, 34 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bugiu in view of Dahm, and further in view of Ruckart.

Regarding claims 15, 34 and 44, Bugiu discloses the limitations of claims 1, 20 and 35 as applied above. Bugiu further discloses determining discount billing rate as a function of loyalty, but does not explicitly disclose determining a time period the subscriber has been a customer and determining the first discounted billing rate based on a function of the time period the subscriber has been a customer that generates a larger discount for longer customer time periods. In an analogous art, Dahm discloses a method and system to provide subscriber loyalty and retention techniques (col. 2, lines 21-43). Dahm discloses offering bettering rates in exchange for longer-term commitment to customers that are likely to churn (col. 11, line 67-col. 12, line 31). Dahm further discloses likelihood of a Customer churning increases each passing month (col. 1, lines 19-27). Therefore, customers who have been subscribers of service for a longer period of time are more likely to churn. It would have been obvious to one having ordinary skill in the art at the time of the invention to combine the billing method as disclosed by Bugiu with the loyalty retention system as disclosed by Dahm so that a service provider can retain existing subscribers and increase profit by retaining subscribers. Bugiu further discloses rewarding customers for

money spend on service, but does not explicitly disclose determining a discounted billing rate based on calling plan subscription cost. In a similar field of endeavor, Ruckart discloses a method and apparatus for providing discounted billing rates customers for wireless telephone services (Abstract, col. 3, lines 33-36). Ruckart discloses providing a greater discount if more expensive products are selected (col. 3 lines 51-56). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Bugiu with Ruckart to determine a discounted billing rate based on the price of a product is selected in order to provide a variable pricing structure that rewards customers for choosing a greater number of goods and services (col. 2, lines 5-19).

Claim 45 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bugiu in view of CCP as applied to claim 41 above, and further in view of Dahm.

Regarding claim 45, Bugiu in view of CCP discloses the limitations of claim 41 as applied above. Bugiu further discloses determining discount billing rate as a function of loyalty, but does not explicitly disclose determining a time period the subscriber has been a customer and determining the first discounted billing rate based on a function of the time period the subscriber has been a customer that generates a larger discount for longer customer time periods. In an analogous art, Dahm discloses a method and system to provide subscriber loyalty and retention techniques (col. 2, lines 21-43). Dahm discloses offering bettering rates in exchange for longer-term commitment to customers that are likely to churn (col. 11, line 67-col. 12, line 31). Dahm further discloses likelihood of a Customer churning increases each passing month (col. 1, lines 19-27). Therefore, a customer who has been subscribers of service for a longer period of time is more likely to churn. It would have been obvious to one having ordinary skill in the art at the

time of the invention to combine the billing method as disclosed by Bugiu in view of CCP with the loyalty retention system as disclosed by Dahm so that a service provider can retain existing subscribers and increase profit by retaining subscribers.

Claim 46 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bugiu in view of CCP as applied to claim 41 above, and further in view of Ruckart.

Bugiu in view of CCP discloses the limitations of claim 41 as applied above. Bugiu further discloses rewarding customers for money spend on service, but does not explicitly disclose determining a discounted billing rate based on calling plan subscription cost. In a similar field of endeavor, Ruckart discloses a method and apparatus for providing discounted billing rates customers for wireless telephone services (Abstract, col. 3, lines 33-36). Ruckart discloses providing a greater discount if more expensive products are selected (col. lines 51-56). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Bugiu in view of CCP with Ruckart to determine a discounted billing rate based on the price of a product is selected in order to provide a variable pricing structure that rewards customers for choosing a greater number of goods and services (col. 2, lines 5-19).

Claim 47 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bugiu in view of CCP as applied to claim 41 above, and further in view of Dahm and Ruckart.

Bugiu in view of CCP discloses the limitations of claim 41 as applied above. Bugiu further discloses determining discount billing rate as a function of loyalty and reward customer for spending money on services, but does not explicitly disclose determining a time period the subscriber has been a customer and determining the first discounted billing rate based on a function of the time period the subscriber has been a customer that generates a larger discount for

longer customer time periods. The references also lack determining discounted billing rate based on a calling plan subscription or determining a time period the subscriber has been a customer. Dahm disclose offering bettering rates in exchange for longer-term commitment to customers that are likely to churn (col. 11, line 67-col. 12, line 31). Dahm further discloses likelihood of a Customer churning increases each passing month (col. 1, lines 19-27). Therefore, Bugiu in view of CCP and Dahm discloses determining a discounted billing rate based on time period the subscriber has been a customer and generates larger discounts for longer customer time periods and higher cost subscription plans, but fails to teach determining a discounted billing rate based on calling plan subscription cost. In a similar field of endeavor, Ruckart discloses a method and apparatus for providing discounted billing rates customers for wireless telephone services (Abstract, col. 3, lines 33-36). Ruckart discloses providing a greater discount if more expensive products are selected (col. lines 51-56). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Bugiu and CCP in view of Dahm and Ruckart to determine a discounted billing rate based on the price of a product is selected in order to provide a variable pricing structure that rewards customers for choosing a greater number of goods and services (col. 2, lines 5-19).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LAI whose telephone number is (571)270-1208. The examiner can normally be reached on Monday-Thursday 9:00 AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on (571)272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Lester Kincaid/
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